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09/808,243	03/14/2001	Richard Muhlbacher	LEAR 0835 PUS	4800

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EXAMINER

THOMPSON, CAMIE S

ART UNIT

PAPER NUMBER

1774

15

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/808,243

Applicant(s)

MUHLBACHER ET AL.

Examiner

Camie S Thompson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Appeal Brief filed on August 12, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23 is/are allowed.
- 6) ☒ Claim(s) 1-22 and 24-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

### DETAILED ACTION

1. Examiner expresses regret over the untimely reopening of prosecution.
2. The rejection of claims 1-25 under 35 U.S.C. 103(a) as being unpatentable over Haeseker et al., U.S. Patent Number 4,479,992 in view of Caudill, Jr. et al., U.S. Patent Number 4,541,885 and in further view of Ohta et al., U.S. Patent Number 4,719,019 is withdrawn due to applicant's argument.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6-7, 15, 18-19 and 22-25 are rejected under 35 U.S.C. 102(b) as being anticipated by Haeseker et al., U.S. Patent Number 4,479,992.

Haeseker discloses a roof lining for automobiles that consists of a decorative layer, an intermediate layer and a support layer as per instant claims 1, 2 and 22-23 (see Figure 1a, Figure 2b, and column 2, lines 23-65). Additionally, the Haeseker reference discloses in column 1, lines 27-68 that the components of the roof lining are pressed and that the support structure is impressed as per instant claim 1. The reference also discloses an upper and a lower layer for the support layer system wherein the upper and lower layers are interconnected along their whole area of contact as per instant claims 1 and 2 (see Figure 2 b). Figure 1a of the Haeseker

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reference shows that the upper foam panel has a different material thickness than that of the lower foam panel as per instant claims 3, 4 and 6 Column 1, lines 27-30 of the reference discloses that the roof lining consists of pressed or resin bonded felts as per instant claims 7 and 18. Hasesker also discloses that the support layer has a polyester fiber fleece facing away from the foam panels as per instant claim 15 (see column 2, lines 24-29 and column 4, lines 5-6). The abstract of the reference discloses that the support layer has a greater compressive strength than that of the intermediate and decorative layer because the support layer is compacted over a part of its extent to a closed layer of reduced thickness as per instant claim 19. In addition, Haeseker discloses that the roof lining possesses acoustic effectiveness (see column 1, lines 63-68). Figure 2b of the reference shows an upper and lower foam panel embodiment. It is disclosed by Haeseker that the embodiment of the upper and lower foam panels provide absorption of acoustic energy as per instant claims 24 and 25 (see Figure 2b and column 2, lines 20-68).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1, 5, 13 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haeseker et al., U.S. Patent Number 4,479,992.

Haeseker discloses a roof lining for automobiles that consists of a decorative layer, an intermediate layer and a support layer as per instant claims 1 and 2 (see Figure 1a, Figure 2b, and

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column 2, lines 23-65). Additionally, the Haeseker reference disclose in column 1, lines 27-68 that the components of the roof lining are pressed and that the support structure is impressed as per instant claim 1. The reference also discloses an upper and a lower layer for the support layer system wherein the upper and lower layers are interconnected along their whole area of contact as per instant claims 1 and 2 (see Figure 2 b). Figure 1a of the Haeseker reference shows that the upper foam panel has a different material thickness than that of the lower foam panel. Therefore, it would have been obvious to one of ordinary skill in the art that each layer would have different porosities because the upper and lower foam have different material thicknesses as per instant claim 13. Haeseker discloses that the support layer has a greater compressive strength than the intermediate or decorative layers. However, this is an optimizable feature. Discovery of optimum values of a result effective variable only involves routine skill in the art in re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980). Therefore, it would have been obvious to one of ordinary skill in the art to have a ratio of material thickness for the upper and lower foam layers at 0.01 to 0.95 because the upper foam layer with greater thickness provides for greater compressive strength as per instant claims 5 and 20.

7. Claims 1, 11-12, 17 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haeseker et al., U.S. 4,479,992 in view of Caudill, Jr., et al., U.S. Patent Number 4,541,885. Haeseker discloses a roof lining for automobiles that consists of a decorative layer, an intermediate layer and a support layer as per instant claims 1 and 2 (see Figure 1a, Figure 2b, and column 2, lines 23-65). Additionally, the Haeseker reference disclose in column 1, lines 27-68 that the components of the roof lining are pressed and that the support structure is impressed as per instant claim 1. The reference also discloses an upper and a lower layer for the support layer

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system wherein the upper and lower layers are interconnected along their whole area of contact as per instant claims 1 and 2 (see Figure 2 b). The Haeseker reference does not disclose that the upper and lower foam layers of the support layer comprise polyurethane as per instant claims 11 and 12. Caudill teaches a support system used in an automobile that has a decorative layer and an intermediate layer. Additionally, the Caudill reference teaches an upper layer of polyurethane foam fused to a lower layer of polyurethane foam wherein there is an adhesive layer serving to bond the two layers by pressing as per instant claims 17 and 21 (see abstract, column 1, lines 14-40 and column 3, lines 51-52). Caudill discloses that the upper and lower foam provide rigidity and stiffness. Therefore, it would have been obvious to one of ordinary skill in the art to modify the layers of the Haeseker reference with polyurethane as the upper and lower foam layers to allow the support layer to be relatively lightweight yet have rigidity and strength.

8. Claims 1, 8-10, 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haeseker et al., U.S. Patent Number 4,479,992 in view 4,541,885 of Ohta et al., U.S. Patent Number 4,791,019.

Haeseker discloses a roof lining for automobiles that consists of a decorative layer, an intermediate layer and a support layer as per instant claims 1, 2 and 22-23 (see Figure 1a, Figure 2b, and column 2, lines 23-65). Additionally, the Haeseker reference discloses in column 1, lines 27-68 that the components of the roof lining are pressed and that the support structure is impressed as per instant claim 1. The reference also discloses an upper and a lower layer for the support layer system wherein the upper and lower layers are interconnected along their whole area of contact as per instant claims 1 and 2 (see Figure 2 b). The Haeseker reference does not disclose that the upper and lower foam layers have an expanded pad layer with a continuous

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glass strand mat with reinforced fibers as per instant claims 8 and 16. Ohta teaches a polyurethane foam interior finishing material for the use in the interior of motor vehicles wherein the foam has an expanded pad layer with a continuous glass strand mat with reinforced glass fibers primarily to the rear side of the polyurethane foam material as per instant claims 8 and 16. (see Ohta abstract). Therefore, it would have been obvious to one of ordinary skill in the art to a continuous strand mat with glass fibers on the back of the polyurethane foam because the mat would provide a soft feel and excellent rigidity and strength for better reinforcement (see Ohta: column 2, lines 41-41). Haeseker also discloses that the support layer has a polyester fiber fleece facing away from the foam panels as per instant claim 9 (see column 2, lines 24-29 and column 4, lines 5-6). The Haeseker reference does not disclose the use of cushioning layers as per instant claim 10. Ohta teaches a cushion pad interposed between the support core and the decorative facing. Ohta teaches the conventional use of a cushioning pad in vehicle components to provide a soft feel and flexibility. Therefore, it would have been obvious to one of ordinary skill in the art to use a cushioning pad so as to provide a soft feel and flexibility as per instant claim 14 (see Ohta: column 1, lines 27-31).

9. Claim 23 is allowed.

#### ***Response to Arguments***

10. Applicant's arguments filed August 12, 2003 have been fully considered but they are not persuasive. Applicant argues that the combination of references is improper. The Haeseker and Caudill reference both use components that are used in automobiles, and thus are analogous art. Additionally, both Haeseker and Caudill have a support system, decorative layer and intermediate layer. Although Caudill does not specifically state that the component in the

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Caudill reference is used for a vehicle roof lining, the component is used for an automobile and has the same structure, as does the Haeseker reference. Caudill teaches that the polyurethane foam layers (upper and lower) provide stiffness and rigidity. Therefore, there is motivation to combine Caudill with Haeseker in order to obtain a rigid support system using polyurethane. Applicant argues that Haeseker teaches away from the use of polyurethane. Haeseker discloses that the contour thickness of the element is unsatisfactory. Haeseker does not teach away from the use of polyurethane as the upper and lower foam layers for the support system. Applicant argues the limitations of claims 5, 13, 17, 19-20 and 24-25. The porosity of the upper and foam layers are dependent upon the thicknesses of the layers. The Figures of the Haeseker reference show that there are thickness differences between the upper and lower foam layers. Therefore, the porosities of the two layers are obviously expected to be different. Applicant argues that claim 15 recites a PET fleece. Haeseker discloses the use of a polyester fiber fleece. A PET fleece is a polyester fleece. Applicant argues the rejection of the material thickness ratio. This is an optimizable feature. The ratio of the thicknesses can be optimized to obtain a support system that has great flexural strength.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Camie S. Thompson whose telephone number is (703) 305-4488. The examiner can normally be reached on Monday through Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cynthia H. Kelly, can be reached at (703) 308-0449. The fax phone number for the Group is (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

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